

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PHILLIP MYLES VIVIAN,

Petitioner,

No. 2:04-cv-0390 FCD DAD (HC)

vs.

A. A. LAMARQUE, Warden,

Respondent.

ORDER

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Petitioner is a state prisoner proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On January 22, 2008, this court issued findings and recommendations recommending that the petition be denied. The findings and recommendations were served on petitioner at his address of record and returned undelivered. On March 11, 2008, the district court adopting the findings and recommendations in full and denied the petition. Judgment was entered on the same day. The March 11, 2008 order and judgment were also served on petitioner at his address of record and returned undelivered.

Almost four years later, on January 24, 2012, petitioner filed a request for information about the status of this action and was informed by the Clerk of the Court that the petition had been denied and the case closed. On February 27, 2012, petitioner filed a response to that notice in which he states that he missed deadlines because he was undergoing treatment

1 for prostate cancer. Petitioner also asserts that another inmate confessed to having committed the  
2 offense of which petitioner was convicted. Petitioner requests appointment of counsel.

3 After review of the facts of petitioner's commitment offense, as set forth in the  
4 court's January 22, 2008 findings and recommendations, this court has determined that  
5 appointment of counsel is neither warranted nor appropriate in this action.

6 Good cause appearing, IT IS HEREBY ORDERED that:

7 1. The Clerk of the Court is directed to send petitioner a copy of the  
8 January 22, 2008 findings and recommendations (Docket Number 11), a copy of the court's  
9 March 11, 2008 order adopting the findings and recommendations (Docket Number 13)  
10 and a copy of the judgment entered in this action (Docket Number 14); and

11 2. No orders will issue in response to future filings in this action.

12 DATED: March 18, 2012.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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